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Image

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PC19055E/AG0069-04  
Serial No. 09/939,754

1637

Certificate of Mailing (37 C.F.R. §1.10):

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service as Express Mail No. EV341079683US in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA. 22313-1450, on this 22nd of January 2004.

(s) Bonnie Acosta  
Bonnie Acosta

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<p><b>In re Application of:</b> <b>M.A. McTigue et al.</b></p> <p><b>Serial No.: 09/939,754</b> <b>Conf. No.: 3837</b></p> <p><b>Filed: August 28, 2001</b></p> <p><b>For: Modifications of VEGF Receptor-2 Protein and Method of Use</b></p>	<p><b>Examiner: Y.J. Kim</b></p> <p><b>Group Art Unit: 1637</b></p> <p><b>Attorney Docket No.: PC19055E/AG0069-04</b></p>
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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**  
**UNDER 37 CFR §1.181(a)**

Sir:

In response to the Notice of Abandonment, form PTOL-1432, mailed January 16, 2004, Applicants hereby petition to withdraw the holding of abandonment.

The Notice alleges that the application is abandoned due to Applicants' failure to reply to the Office Action mailed July 1, 2003. However, Applicants timely filed a response to the Office Action on August 5, 2003. As evidence of such, attached to this Petition please find:

- (1) a copy of the Response timely filed August 5, 2003, including in the top margin a properly executed Certificate of Mailing under 37 CFR § 1.8; and

(2) a copy of the return receipt postcard submitted with the Response, itemizing the items submitted and stamped as received by the USPTO August 7, 2003.

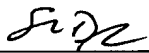
In light of the foregoing comments and attached evidence, Applicants respectfully petition the Commissioner to withdraw the holding of abandonment, and request prompt consideration of the timely filed Response.

Applicants invite the Commissioner to telephone the undersigned attorney if there are any issues outstanding that have not been addressed to the Commissioner's satisfaction.

No fee is believed to be due for this Petition. However, should a fee be required, please charge such fee to Deposit Account No. 500329.

Respectfully submitted,

Dated: January 22, 2004

  
\_\_\_\_\_  
Stephen D. Prodnuk  
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Attachments:

- (1) Copy of Response filed August 5, 2003 (6 pages including transmittal and certificate of mailing)
- (2) Copy of stamped postcard receipt (1 page)
- (3) Copy of Notice of Abandonment signed by K. R. Horlick and dated 1/12/04

**Notice of Abandonment**

Application No.

09/939,754

Examiner

Young J. Kim

Applicant(s)

MCTIGUE ET AL.

Art Unit

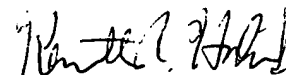
1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 01 July 2003.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.
    - The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

No correspondence could be made with the Applicants.

  
KENNETH R. HORLICK, Ph.D.  
PRIMARY EXAMINER  
1/12/04

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.